



## **PERIODIC REVIEW**

**North Lynnwood Shopping Center  
Facility Site ID#: 87539433**

**17425-17525 Highway 99,  
Lynnwood, Washington**

**Northwest Region Office**

**TOXICS CLEANUP PROGRAM**

**May 2010**

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## 1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup Site conditions and monitoring data to ensure that human health and the environment are being protected at the North Lynnwood Shopping Center (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Voluntary Cleanup Program (VCP). The cleanup actions resulted in concentrations of tetrachloroethylene, aka tetrachloroethene and perchloroethylene (PCE) remaining at the Site which exceed MTCA cleanup levels. The MTCA cleanup levels for soil are established under WAC 173-340-740. The MTCA cleanup levels for groundwater are established under WAC 173-340-720. WAC 173-340-420 (2) requires that Ecology conduct a periodic review of a Site every five years under the following conditions:

- (a) Whenever the department conducts a cleanup action
- (b) Whenever the department approves a cleanup action under an order, agreed order or consent decree
- (c) Or, as resources permit, whenever the department issues a no further action opinion;
- (d) and one of the following conditions exists:
  - 1. Institutional controls or financial assurance are required as part of the cleanup
  - 2. Where the cleanup level is based on a practical quantitation limit
  - 3. Where, in the department's judgment, modifications to the default equations or assumptions using Site-specific information would significantly increase the concentration of hazardous substances remaining at the Site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors the department shall consider include [WAC 173-340-420(4)]:

- (a) The effectiveness of ongoing or completed cleanup actions, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the Site;
- (b) New scientific information for individual hazardous substances of mixtures present at the Site;
- (c) New applicable state and federal laws for hazardous substances present at the Site;
- (d) Current and projected Site use;
- (e) Availability and practicability of higher preference technologies; and
- (f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

The Department shall publish a notice of all periodic reviews in the Site Register and provide an opportunity for public comment.

## **2.0 SUMMARY OF SITE CONDITIONS**

### **2.1 Site Description and History**

The address in Ecology records and on the buildings is 17425 – 17525 Highway 99, Lynnwood, Washington, but the address in the Snohomish County records for the parcel is 17511 Highway 99. The buildings are located in a retail and residential area approximately one and one-half miles northwest of Alderwood Mall in Lynnwood, Washington. The property includes an irregularly shaped parcel covering approximately 5.83 acres of land. Improvements to the property include two single-story, masonry buildings enclosing approximately 57,631 square feet of space. The larger east building was reportedly erected in 1963. The smaller west building was reportedly erected in 1965. Additional improvements include paved parking on the west sides of both buildings and sparse perimeter and parking lot island landscaping. The property has been occupied by Famous American Bagel Delicatessen, Blockbuster Video Sales and Rental, Dry Clean USA, and Domino's Pizza Carry out and Delivery Restaurant in the smaller west building. Petosa's Restaurant, now Marco's, and QFC Grocery Store occupied the larger east building. The larger building had a vacant space previously occupied by Bartell's Drug Store, now Chase Bank. A McDonalds Restaurant now occupies the location of a former gasoline station in the westernmost corner of the block which is not part of the property, and a new QFC Gasoline Station is just north of that.

The Site is situated on a gently rolling elevated plain that was formed during the last period of continental glaciation that ended approximately 13,500 years ago. Published geologic maps for the Site vicinity (Jones, 1999) suggest that much of the material underlying the Site is glacial till, a dense heterogenous mixture of silt, sand, and gravel. Typically, the till exhibits relatively low vertical hydraulic conductivity. Topographically, the Site slopes perceptibly downward to the west. The upper east portion is approximately 460 feet above sea level and the lower west portion is approximately 440 feet above sea level. Based upon inference from topography and local drainage patterns, it appears that shallow seated groundwater in the vicinity of the property may flow in a westerly direction.

With respect to surface water resources, a small unnamed pond is located approximately 0.5 of a mile to the west. Lund's Creek flowing in Lund's Gulch is located approximately 0.7 of a mile to the northwest. This surface water course flows in a northwesterly direction and eventually discharges into Puget Sound approximately 2.1 miles to the northwest.

### **2.2 Site Investigations and Sample Results**

Environmental Associates, Inc. (EAI) presented Viking Ventures, LLC., with the findings of a Phase I Environmental Audit for the property on December 4, 2001. A conclusion included unknown/unassessed environmental quality of soil and/or groundwater associated with two (2) former dry-cleaners and one (1) existing dry-cleaner (Dry-Clean USA). The two former cleaners occupied spaces at the north and south ends of the larger east building. These spaces were occupied by Petosa's Restaurant and QFC Grocery. EAI performed a preliminary Site

Assessment in February 2002, which involved the completion of six (6) exterior Strataprobe borings around the perimeter of the buildings and one (1) interior Geoprobe boring next to the existing dry-cleaner's dry-cleaning machine. The findings of that preliminary effort confirmed the presence of the dry-cleaning solvent tetrachloroethene (commonly referred to as PCE or "perc") in soil samples at two external locations (B2 and B4). The concentrations of PCE at both locations exceeded Ecology's target compliance level for unrestricted land use. Additionally, a groundwater sample collected for the subsurface adjacent to the active cleaner's machine contained PCE at a concentration slightly above Ecology's target compliance level. Additional details regarding the preliminary assessment are summarized in a February 19, 2002 Subsurface Sampling and Testing report, prepared for Viking Ventures, LLC, a prospective purchaser.

A shallow and suspected discontinuous zone of "perched" groundwater was encountered at the contact between overlying fill-soil/glacial till and the underlying dense native glacial till. Depths to the "perched" groundwater ranged from approximately 4 to 9 feet below the ground surface. The yields of groundwater at the perched zone were the greatest at sampling locations B1, B3, B12, B14, B15, and GP-1. The shallow seepage zone was also noted at B2, B10, B11, B13 and B5, however, these locations did not yield a collectable volume of groundwater. The shallow seep was not observed or was poorly defined at B4, B6, B7, B8, and B9.

UST removal documents for the southwest adjacent former gasoline station opined that "perched" groundwater beneath that Site may lie at a depth of approximately 2 to 3 feet beneath the ground surface. In contrast, environmental borings drilled at the former gasoline station lot adjacent to the west did not encounter other aquifers within 40 feet of the ground surface.

Ten additional Strataprobe borings (B7 through B16) were made on February 27, 2002 using a truck mounted Strataprobe (hydraulic ram) soil boring rig. These boring locations were selected in an attempt to further define the lateral and vertical limits of the previously detected locations of PCE impacted soil and/or shallow perched groundwater. Each soil sample was transferred upon collection directly to the on-Site mobile laboratory. Soils encountered at the Site consisted of a silt/sand/gravel fill and medium dense, weathered glacial till, which extended to depths between 2 and 9 feet below the ground surface (BGS). Below the fill/weathered till, a dark-gray, very-dense, glacial till was encountered. The glacial till continued to the 13-foot maximum depth explored. Shallow seeps of groundwater were noted "perched" above the contact between the fill/weathered till and glacial till, at boring locations B10, B11, B12, B13, B14, B15, and B16. Yields of groundwater were sufficient to provide "grab samples" at B12, B14 and B15. Additionally, EAI sampled on-Site groundwater monitoring well MW-4. According to Mr. Charlie Olson, monitoring wells MW-1 through MW-4 were associated with QFC's plan to construct a new gasoline station on that portion of the property. Additional details regarding these monitoring wells along with any past sampling data from them were not disclosed to EAI.

Three (3) additional soil samples were analyzed. These samples included the deeper soil samples from Boring B2 (at 11 feet) and B4 (at 9 feet), where PCE had been detected in the shallower samples. Additionally, a shallow soil sample was selected for follow-up analysis from interior Geoprobe boring GP-1, where PCE had been detected in a shallow groundwater "grab" sample. All three (3) follow-up samples were analyzed for chlorinated volatile organic compounds

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(VOCs) by EPA test method 8021B. A minimum of at least one (1) soil sample from each soil boring (B7 through B16) were submitted to the on-Site mobile laboratory for analysis. In each case the selected sample was collected along observed seepage zones or zones of increased moisture, where lateral transport of contaminants may occur. At locations B7 and B9 a shallow soil sample was also selected for laboratory analysis. The selected samples were analyzed by the mobile laboratory for volatile chlorinated organic compounds by EPA test method 8021B.

Groundwater “grab” samples were recovered from B12, B14, B15, and monitoring well MW-4. Due to time constraints these samples could not be analyzed by the mobile laboratory. They were analyzed for chlorinated VOC’s by the regular project laboratory. There are some problems with the groundwater data: the samples were from probes and not properly constructed monitoring wells (except for one well that was for another purpose on adjacent property), and the laboratory analysis for vinyl chloride (a PCE breakdown product) had too high a detection limit at 5 parts per billion (ppb) because the cleanup standard is .2 ppb. These soil borings are near the western property boundary, and the lack of definitive information regarding the PCE breakdown product vinyl chloride could affect the remedy, as groundwater point of compliance in this situation must remain within the property boundary.

No additional detections of PCE or its common degradation products were detected, including the deeper soil samples from B2 and B4, where PCE had previously been detected in shallower samples. Additionally, the shallow soil sample collected adjacent to the operating dry-cleaner’s machine, produced non-detectable concentrations of PCE. These findings further define the approximate lateral and vertical limits of the previously detected concentrations of PCE. PCE was not detected in any of the groundwater samples collected during this supplemental exploration.

Also, the lateral and vertical limits of contamination in the area of the previous detection of PCE in soil at seven feet below the ground surface at B4 have been defined. According to Mr. Olson, the former dry-cleaner operated within the southwest corner of the grocery store building. The approximate lateral limits of PCE impacted soil under the southwest corner of the building are less defined, but likely exist under the operational areas of the former dry-cleaner. The non-detection of PCE in the deeper soil sample collected from approximately 9 feet below the ground surface at B4 suggests that at B4 the very-dense glacial till has constrained the vertical leaching of PCE within a depth range of approximately 2 feet along the perched water seepage zone. This beneficial limiting characteristic of the till is anticipated at other localities as well.

PCE has been detected at the Blockbuster building in the shallow, perched groundwater “grab” sample at GP-1 and in soil along a shallow groundwater seep at B2. PCE was not detected in the soil sample from GP-1 collected below the floor slab. It is possible that the PCE identified in the shallow perched water under the existing dry-cleaners space may be from a release mechanism other than surface spills in and around the dry-cleaning machine. The absence of PCE in the soil sample along the perched groundwater seep at up-gradient Boring B10 suggests that the former dry-cleaner that occupied Petosa’s Restaurant may not be the source of the PCE. Occasional releases of PCE through some imperfection in the sanitary sewer are a plausible candidate release mechanism. The detections of PCE in soil and perched groundwater at the Blockbuster

building appear consistent with preferential distribution of the contaminants along utility corridors. EAI has interpreted the results of the analysis of soil and groundwater samples collected along the down-gradient boundary of the property west of the Blockbuster building to suggest that off-property migration of PCE along the shallow seep has not occurred. Acknowledging the suspected discontinuous and variable nature of the shallow perched seep, it may also be reasonable to consider that this shallow groundwater seep is unlikely to discharge to or affect the environmental quality of other surface water bodies. Additionally, Site explorations conducted at the former gasoline station adjacent to the southwest corner of the subject Site, suggest that deeper groundwater bearing zones have not been encountered within 40 feet of the ground surface. Therefore deeper water bearing zones, which may have the potential to serve as existing or future potable water sources for the surrounding community, also appear to be at low risk from the environmental conditions encountered on the Site.

## 2.3 Cleanup Actions

The past/existing dry-cleaning operations conducted on the property appear to have resulted in environmental impacts in at least two distinct areas of the Site. A shallow plume of PCE impacted groundwater may exist in “perched” groundwater flowing westward, possibly along the sanitary sewer or other utility corridor under the existing dry-cleaning facility in the Blockbuster building. Additional explorations supported by laboratory testing of soil and/or shallow perched groundwater at other locations appear to have been successful in identifying the approximate lateral and vertical limits of PCE impacted soil and water, except for vinyl chloride in the groundwater. Additionally, off-property migration of PCE does not appear to have occurred to date, but the same can’t be said for vinyl chloride, a breakdown product of PCE. The actual release mechanism that is creating the suspected plume at the existing dry-cleaners continues to remain unknown, but might conceivably be due to releases of PCE through unidentified imperfections in the sanitary sewer. Alternative release mechanisms may also exist. The second area of impact appears to be associated with the former dry-cleaner that occupied the southwestern corner of the QFC building. Results of the supplemental Site exploration appears to have been successful in further defining the lateral and vertical extent of impacted soil in the vicinity of boring B4. Impacted soil could conceivably exist under the subject building within QFC’s lease space, where the former dry-cleaner operated. Also, it was EAI’s opinion that the detection of solvent degradation products in perched groundwater at B3 suggests the possibility that impacted soil and/or groundwater exists under the north end of the QFC building (Petosa’s/Marco’s Restaurant), where another dry-cleaner formerly operated. Interior borings have not been performed to confirm this opinion due to the significant disruption it would likely pose to the restaurant owner.

The shallow zone of “perched” groundwater appears to have been impacted. Typically, Ecology requires that it be demonstrated that the “perched” groundwater is not likely to infiltrate and contaminate deeper water bearing zones and/or surface water bodies, or migrate off the property. This is considered a conditional point of compliance for groundwater. The following expanded points of discussion present potential mitigating measures:

- The consultant claimed sufficient vertical separation and soil density between the shallow groundwater seepage zone and deeper water bearing units, which are suspected to exist at depths greater than 40 feet below the ground surface (bgs); however, it isn't clear what this means from a regulatory perspective since shallow groundwater must also meet a point of compliance.
- The area of the subject property overlying the suspected lateral limits of PCE impacted soil is predominantly covered with asphalt pavement and concrete building foundations. These features essentially act as a cap preventing direct exposure, and limiting the infiltration of precipitation and leaching of the PCE.
- Additionally, it was EAI's opinion that the discontinuous and variable nature of the shallow perched water zone, along with the relatively low concentrations of PCE detected, significantly reduces the risk or likelihood that other surface water bodies could be impacted, and contamination is not leaving the property. Unfortunately, there is a lack of information regarding vinyl chloride, a breakdown product of PCE, and it is unknown whether or not any vinyl chloride may be leaving the property.

Ecology agreed at the time that the remedy was protective, and after a restrictive covenant was recorded with Snohomish County a 'No Further Action' letter was issued on November 21, 2002.

## 2.4 Cleanup Levels

The concentrations of PCE detected in soil exceed Ecology's target compliance level; however, the concentrations are below Ecology's Method B target compliance level (19.6 parts per million or ppm) established for the protection of human health through direct contact. Groundwater is affected but a conditional point of compliance for PCE was established below the "perched" groundwater, above any lower aquifers (next one down was reported to be greater than 40 feet bgs), and within the property boundaries. No conditional point of compliance was established for vinyl chloride in groundwater.

## 2.5 Restrictive Covenant

Based on retail Site use, surface cover and cleanup levels, it was determined that the Site was eligible for a 'No Further Action' determination if a Restrictive Covenant was recorded for the property. A Restrictive Covenant was recorded for the Site in 2002 which imposed the following limitations:

Section 1. No groundwater may be taken from the Property for any use other than for environmental monitoring purposes. A portion of the Property contains and/or may contain Tetrachloroethylene ("PERC") contaminated soil located under buildings and paved parking areas as depicted on Exhibit B labeled Site Plan — Detailed. The Owner shall not alter, modify, or remove the existing structures in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new

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exposure pathway without prior written approval from Ecology. Any activity on the Property that may result in the release or exposure to the environment of such contaminated soil, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in such affected areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

Section 2. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil described in Section 1 above that remains on the Property, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 3. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate provision for continued compliance with the terms and conditions of this Restrictive Covenant.

Section 4. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times and upon reasonable prior notice for the purpose of evaluating the Owner's compliance with this Restrictive Covenant; and to take samples and inspect activities conducted at the Property.

Section 7. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

The Restrictive Covenant is available as Appendix 6.4.

## **3.0 PERIODIC REVIEW**

### **3.1 Effectiveness of completed cleanup actions**

The Restrictive Covenant for the Site was recorded and is in place. This Restrictive Covenant prohibits activities that will result in the release of contaminants at the Site without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Restrictive Covenant serves to ensure the long term integrity of the remedy.

Based upon the Site visit conducted on June 9, 2010, the remedy (asphalt cover, etc.) at the Site continues to eliminate exposure to contaminated soils by ingestion and contact. The asphalt appears in satisfactory condition and no repair, maintenance, or contingency actions have been required, although there are signs of wear in a high traffic area between the McDonald's Restaurant and the QFC gasoline station, but this is away from the remaining areas of PCE soil contamination. The Site is still operating as a retail center. A photo log is available as Appendix 6.5.

Soils with PCE (breakdown products also likely) concentrations higher than MTCA cleanup levels are still present at the Site. However, the remedy (Site structures and asphalt surface, etc.) prevent human exposure to this contamination by ingestion and direct contact with soils. The Restrictive Covenant for the property will ensure that the soil contamination remaining is contained and controlled.

The environment (groundwater) may not be protected, as additional information is needed to establish a conditional point of compliance for vinyl chloride, a breakdown product of PCE.

### **3.2 New scientific information for individual hazardous substances for mixtures present at the Site**

There is no new scientific information for the contaminants related to the Site.

### **3.3 New applicable state and federal laws for hazardous substances present at the Site**

The cleanup at the Site was governed by Chapter 173-340 WAC. WAC 173-340-702(12) (c) [2001 ed.] provides that,

“A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment.”

Although cleanup levels changed for petroleum hydrocarbon compounds as a result of modifications to MTCA in 2001, the contaminant at this Site do not appear to be affected by this regulatory change.

### **3.4 Current and projected Site use**

The Site is currently used for commercial retail purposes. There have been no changes in current or projected future Site or resource uses.

### **3.5 Availability and practicability of higher preference technologies**

The remedy implemented included containment of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

### **3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels**

The analytical methods used at the time of the remedial action were capable of detection below selected Site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

## **4.0 CONCLUSIONS**

The following conclusions have been made as a result of this periodic review:

- The cleanup actions completed at the Site appear to be protective of human health, but not the environment (groundwater).
- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.
- Groundwater cleanup levels have not been met at a standard point of compliance for the Site, nor with cleanup standards at a conditional point of compliance not exceeding the property boundary.
- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. Additional cleanup actions may be required of the property owner to establish a conditional point of compliance for groundwater. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy is maintained.

### **4.1 Next Review**

The next review for the Site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

## 5.0 REFERENCES

1. December 4, 2001 Environmental Associates, Inc. *Phase 1 Environmental Audit, North Lynnwood Shopping Center*;
  2. February 19, 2002 Environmental Associates, Inc. *Subsurface Sampling and Testing, North Lynnwood Shopping Center*;
  3. March 7, 2002 Environmental Associates, Inc. *Supplemental Subsurface Investigation, North Lynnwood Shopping Center*;
  4. April 3, 2002 Environmental Associates, Inc. *Ground Water Resource Survey Addendum, North Lynnwood Shopping Center*;
- 2002 Restrictive Covenant;
- Ecology, 2010 Site Visit.

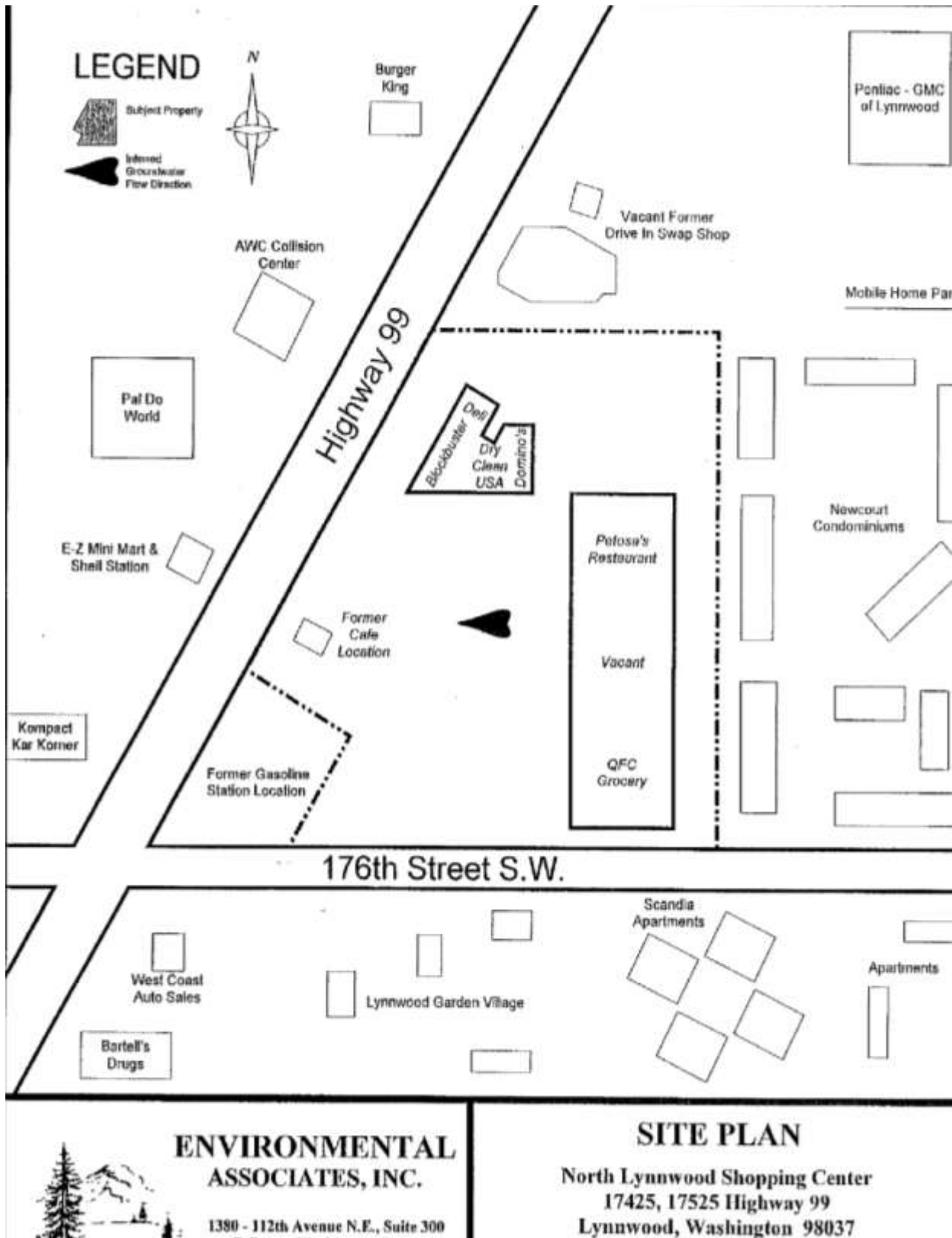
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## **6.0 APPENDICES**

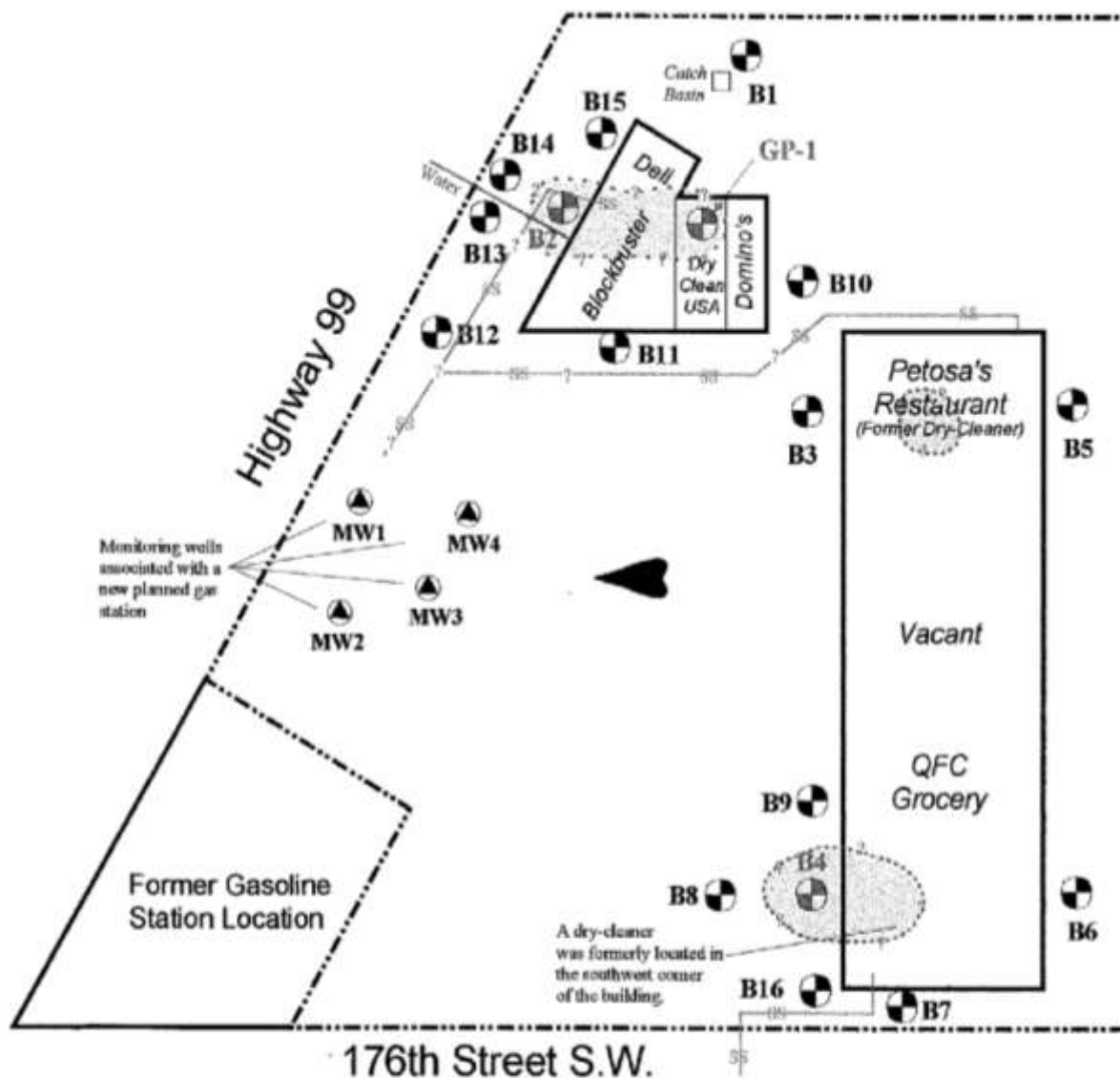
## 6.1 Vicinity Map






## 6.2 Site Plan



## 6.3 Contaminated Areas Map



### LEGEND

-  Approximate location of Strataprobe (B-1 through B-6) and Geo-Probe boring (GP-1) locations advanced by Environmental Associates, Inc., in February 2002. Red denotes locations where PCE was present in soil or groundwater.
-  Approximate locations of select water and sanitary sewer lines.
-  Potential location / extent of PCE impacted soil and/or perched shallow groundwater.



**ENVIRONMENTAL  
ASSOCIATES, INC.**

1380 - 112th Avenue N.E., Suite 300

### SITE PLAN- DETAILED

North Lynnwood Shopping Center  
17425, 17525 Highway 99  
Lynnwood, Washington 98037

## 6.4 Environmental Covenant

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NOV 20 2002  
DEPT OF ECOLOGY

AFTER RECORDING MAIL TO:

C. David Taylor  
Monte Villa Partners, LLC  
819 Windsor Dr. SE  
Sammamish, WA 98074

  
200211150548  
11/15/2002 01:46 PM Snohomish  
P.0006 RECORDED County

200211150548

### RESTRICTIVE COVENANT

This declaration of Restrictive Covenant is made pursuant to RCW 70.105D.031(1)(f) and (g) and WAC 173-340-440 by Name of Property Owner, its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

**Legal Description (abbreviated):** THOSE PORTIONS OF TRACT 101, MEADOWDALE 10 ACRE TRACTS DIVISION NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 33, RECORDS OF SNOHOMISH COUNTY, WASHINGTON

Tax Parcel I.D. #: 003727-012-004-03

Owner: Monte Villa Partners, LLC

**RESTRICTIVE COVENANT  
MONTE VILLA PARTNERS, LLC**

**RECEIVED**  
NOV 20 2002  
DEPT OF ECOLOGY

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Monte Villa Partners LLC, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology"). An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following documents:

1. December 4, 2001 Environmental Associates, Inc. Phase 1 Environmental Audit, North Lynnwood Shopping Center
2. February 19, 2002 Environmental Associates, Inc. Subsurface Sampling and Testing, North Lynnwood Shopping Center
3. March 7, 2002 Environmental Associates, Inc. Phase 1 Environmental Audit, North Lynnwood Shopping Center
4. April 3, 2002 Environmental Associates, Inc. Ground Water Resource Survey Addendum, North Lynnwood Shopping Center

These documents are on file at Ecology's Northwest Regional Office.

This Restrictive Covenant is required because the Remedial Action did not include the removal of residual concentrations of Tetrachloroethylene ("PERC") which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for Soil and shallow "perched" groundwater established under WAC 173-340-740.

The undersigned, Monte Villa Partners LLC, is the fee owner of real property (hereafter "Property") in the County of Snohomish, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Exhibit A of this Restrictive Covenant and made a part hereof by reference. Monte Villa Partners LLC makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

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Section 1 No groundwater may be taken from the Property for any use other than for environmental monitoring purposes.

A portion of the Property contains and/or may contain Tetrachloroethylene ("PERC") contaminated soil located under buildings and paved parking areas as depicted on Exhibit B labeled Site Plan -- Detailed. The Owner shall not alter, modify, or remove the existing structures in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology. Any activity on the Property that may result in the release or exposure to the environment of such contaminated soil, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in such affected areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

Section 2. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil described in Section 1 above that remains on the Property, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 3. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate provision for continued compliance with the terms and conditions of this Restrictive Covenant.

Section 4. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.


Section 6. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times and upon reasonable prior notice for the purpose of evaluating the Owner's compliance with this Restrictive Covenant; and to take samples and inspect activities conducted at the Property.

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Section 7. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

MONTE VILLA PARTNERS LLC

By Viking Ventures LLC, Manager

  
\_\_\_\_\_  
C. David Taylor, Managing Member

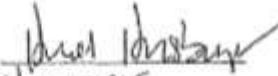
11/12/02  
\_\_\_\_\_  
Date

STATE OF WA )  
 )  
COUNTY OF King ) ss.

I certify that I know or have satisfactory evidence that C David Taylor is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the said instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 11-12-2002



Signature of Notary Public   
Print Name: HEIDI HONSBERGER  
My appointment expires: 08-13-2006

200211150548

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

THOSE PORTIONS OF TRACT 101, MEADOWDALE 10 ACRE TRACTS DIVISION NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 33, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, AND OF LOTS 4 AND 5, BLOCK 12, ALDERWOOD MANOR NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 72, RECORDS OF SAID COUNTY, AND OF VACATED FIREWAY ABUTTING SAID TRACT 101 AND LOT 4, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF SAID TRACT 101 WITH THE SOUTHEASTERLY MARGIN OF HIGHWAY 99 (PACIFIC HIGHWAY), THENCE NORTH 31°03'51" EAST 47.00 FEET ALONG SAID SOUTHEASTERLY MARGIN TO THE MOST NORTHERLY CORNER OF A TRACT DESCRIBED IN DEED TO THE CITY OF LYNNWOOD RECORDED UNDER SNOHOMISH COUNTY RECORDING NO. 8501180270;  
THENCE SOUTH 40°57'34" EAST 41.10 FEET ALONG THE NORTHEASTERLY LINE THEREOF TO THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID TRACT 101 AND THE NORTH MARGIN OF 176<sup>TH</sup> STREET SOUTHWEST AS DESCRIBED IN DEED TO THE CITY OF LYNNWOOD RECORDED UNDER RECORDING NO. 8404200146;  
THENCE SOUTH 89°08'00" EAST 233.39 FEET ALONG SAID SOUTH LINE AND NORTH MARGIN TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 00°52'00" EAST 150.50 FEET;  
THENCE NORTH 89°08'00" WEST 191.03 FEET TO SAID SOUTHEASTERLY MARGIN;  
THENCE NORTH 31°03'51" EAST 100.19 FEET ALONG SAID SOUTHEASTERLY MARGIN;  
THENCE SOUTH 58°56'09" EAST 57.18 FEET;  
THENCE SOUTH 89°08'00" EAST 97.23 FEET;  
THENCE NORTH 00°52'00" EAST 146.01 FEET;  
THENCE NORTH 58°56'09" WEST 67.78 FEET TO SAID SOUTHEASTERLY MARGIN;  
THENCE NORTH 31°03'51" EAST 267.92 FEET ALONG SAID SOUTHEASTERLY MARGIN TO THE NORTH LINE OF SAID LOT 4;  
THENCE SOUTH 89°08'00" EAST 143.27 FEET ALONG SAID NORTH LINE TO THE WEST LINE OF SAID LOT 5;  
THENCE SOUTH 00°49'57" WEST 140.00 FEET ALONG SAID WEST LINE TO THE SOUTH LINE OF THE NORTH 140.00 FEET OF SAID LOT 5, AS MEASURED ALONG THE EAST LINE THEREOF;  
THENCE SOUTH 89°08'00" EAST 173.00 FEET ALONG SAID SOUTH LINE TO THE EAST LINE OF SAID LOT 5;  
THENCE SOUTH 00°49'57" WEST 480.00 FEET ALONG SAID EAST LINE TO SAID NORTH MARGIN OF 176<sup>TH</sup> STREET SOUTHWEST;  
THENCE NORTH 89°08'00" WEST 398.83 FEET ALONG SAID NORTH MARGIN TO THE TRUE POINT OF BEGINNING;

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SUBJECT TO AN EASEMENT FOR INGRESS, EGRESS AND UTILITY PURPOSES OVER, UNDER AND ACROSS THOSE PORTIONS OF TRACT 101, MEADOWDALE 10 ACRE TRACTS DIVISION NO. 2, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 33, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, AND OF VACATED FIREWAY ABUTTING SAID TRACT 101, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF SAID TRACT 101 WITH THE SOUTHEASTERLY MARGIN OF HIGHWAY 99 (PACIFIC HIGHWAY), THENCE NORTH 31°03'51" EAST 47.00 FEET ALONG SAID SOUTHEASTERLY MARGIN TO THE MOST NORTHERLY CORNER OF A TRACT DESCRIBED IN DEED TO THE CITY OF LYNNWOOD RECORDED UNDER SNOHOMISH COUNTY RECORDING NO. 8501180270;  
THENCE SOUTH 40°57'34" EAST 41.10 FEET ALONG THE NORTHEASTERLY LINE THEREOF TO THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID TRACT 101 AND THE NORTH MARGIN OF 176<sup>TH</sup> STREET SOUTHWEST AS DESCRIBED IN DEED TO THE CITY OF LYNNWOOD RECORDED UNDER RECORDING NO. 8404200146;  
THENCE SOUTH 89°08'00" EAST 233.39 FEET ALONG SAID SOUTH LINE AND NORTH MARGIN TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 00°52'00" EAST 181.34 FEET;  
THENCE NORTH 89°08'00" WEST 116.97 FEET;  
THENCE SOUTH 00°52'00" WEST 30.84 FEET;  
THENCE NORTH 89°08'00" WEST 30.69 FEET;  
THENCE NORTH 31°03'27" EAST 13.30 FEET;  
THENCE NORTH 00°52'00" EAST 34.80 FEET;  
THENCE NORTH 58°56'09" WEST 19.98 FEET TO SAID SOUTHEASTERLY MARGIN;  
THENCE NORTH 31°03'51" EAST 35.00 FEET ALONG SAID SOUTHEASTERLY MARGIN;  
THENCE SOUTH 58°56'09" EAST 57.18 FEET;  
THENCE SOUTH 89°08'00" EAST 121.23 FEET;  
THENCE SOUTH 00°52'00" WEST 178.50 FEET;  
THENCE SOUTH 13°13'25" EAST 30.76 FEET TO SAID NORTH MARGIN OF 176<sup>TH</sup> STREET SOUTHWEST;  
THENCE NORTH 89°08'00" WEST 37.50 FEET ALONG SAID NORTH MARGIN TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE CITY OF LYNNWOOD, SNOHOMISH COUNTY, WASHINGTON.

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## 6.5 Photo log

**Photo 1: South end of east building**



**Photo 2: North end of east building and east end of west building**



**Photo 3: New QFC Gasoline Station**



**Photo 4: Close-up of entrance sign**

